

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

-----X  
DWAYNE J. SCOTT and DERELL J. MEYNARD,  
*individually and on behalf of all others similarly  
situated*

Plaintiffs,

- against -

WHOLE FOODS MARKET GROUP, INC.,

Defendant.  
-----X

**REPORT AND  
RECOMMENDATION**

CV 18-86 (SJF) (AKT)

**A. KATHLEEN TOMLINSON, Magistrate Judge:**

On March 9, 2020, this Court conducted a third and final show cause hearing to address the motion of the Moser Law Firm PC, by Steven John Moser, Esq., to be relieved as counsel of record in this action for plaintiff Dwayne J. Scott. Plaintiff Scott did not appear at the hearing and did not communicate in any way with the Court. The Court made its findings and recommendation on the record during the March 9, 2020. In addition to relieving the Moser Law Firm from its representation of Dwayne J. Scott, the Court recommended to Judge Feuerstein that plaintiff Scott's action against the defendant be dismissed for failure to prosecute and failure to comply with the Orders of this Court. The Court instructed counsel to obtain a copy of the transcript so that the findings and recommendation could be forwarded to Judge Feuerstein. The transcript has now been posted to ECF and is incorporated by reference into this Report and Recommendation. *See* DE 64.

**OBJECTIONS**

Pursuant to 28 U.S.C. § 636(b)(1)(c) and Rule 72 of the Federal Rules of Civil Procedure, the parties shall have fourteen (14) days from service of this Report and Recommendation to file

written objections. *See* FED. R. CIV. P. 6(a), (e). Such objections by an attorney of record shall be filed with the Clerk of the Court via ECF. Any objections by a *pro se* party shall be filed with the Clerk of the Court by overnight mail or regular mail. **A courtesy copy of any objections filed is to be sent to the Chambers of the Honorable Sandra Feuerstein. Any requests for an extension of time for filing objections must be directed to Judge Feuerstein prior to the expiration of the fourteen (14) day period for filing objections.** Failure to file objections will result in a waiver of those objections for purposes of appeal. *Thomas v. Arn*, 474 U.S. 140, 155 (1985); *Beverly v. Walker*, 118 F.3d 900, 901 (2d Cir. 1997), *cert. denied*, 522 U.S. 883 (1997); *Savoie v. Merchants Bank*, 84 F.3d 52, 60 (2d Cir. 1996).

**Plaintiff's counsel is directed to serve a copy of (1) the March 9, 2020 transcript and (2) this Report and Recommendation forthwith upon plaintiff Dwayne J. Scott by overnight mail and first-class mail (and email to the extent possible) and to file proof of such service on ECF by May 15, 2020.**

**SO ORDERED:**

Dated: Central Islip, New York  
May 12, 2020

/s/ A. Kathleen Tomlinson  
A. KATHLEEN TOMLINSON  
United States Magistrate Judge